

2 FAM 180

ACTS OF VIOLENCE

(CT:GEN-389; 02-28-2012)
(Office of Origin: DS/OFM)

2 FAM 181 POLICY

2 FAM 181.1 In the United States

(TL:GEN-236; 10-10-1985)
(Uniform State/AID/USIA Regulations)

United States policy relative to demonstrations against diplomatic missions in Washington is outlined in section 2 FAM 231.3. This policy is practiced regardless of the nature of relationships between the United States and the individual country concerned.

2 FAM 181.2 Abroad

(TL:GEN-236; 10-10-1985)
(Uniform State/AID/USIA Regulations)

- a. United States policy relative to demonstrations by individuals or groups in foreign countries against any component of an American diplomatic or consular post, including establishments located apart from diplomatic or consular offices, is to expect full host government protection against violent acts which adversely affect the welfare of American citizens and American private and official property.
- b. It is the policy of the United States Government that, in the event of failure of full protection, host governments be requested to undertake immediately to pay directly for replacement of or repair to property damaged or lost by acts of violence, including riots, demonstrations, etc. Damaged United States property must be repaired or replaced promptly to ensure that there will be no undue interruptions to United States activities at the post. The United States Government looks to the host government for direct action to restore damaged property and make restitution for other losses. Direct host government financing of the cost of such repairs or replacements is expected, but in the interest of immediate action, the United States Government finances the work and

bills the host government for the costs. (See section 2 FAM 184.2.)

- c. In addition to the basic policies, there are special legislative requirements for aid-recipient countries. Section 620(j) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2370) provides as follows:
 - 1 "The President shall consider terminating assistance under this or any other Act to any country which permits, or fails to take adequate measures to prevent, the damage or destruction by mob action of United States property within such country, and fails to take appropriate measures to prevent a recurrence thereof and to provide adequate compensation for such damage or destruction."
- d. When Americans are injured and/or property is damaged, posts affected should report the circumstances to the Department as soon as possible. AID and USIA establishments forward a copy of the report to their parent agencies: for AID, attention M/SER/EOMS; for USIA, attention M/SP.
- e. Where conditions clearly indicate the host government is unable to make restitution promptly, the post may provide assistance to the host government by drafting the scope of work or other provisions of a contract for repair or replacement to ensure that the work is undertaken competently and promptly. However, caution should be exercised to ensure that the host government, in such cases, is contracting party and that the contract(s) will be let to contractors who are considered reliable by the post. Similarly, a post may offer advice on the procurement of materials and equipment which must be imported. In every case, such advice must not deviate from the principle that payments to vendors and contractors should be paid directly by the host government.

2 FAM 181.3 Responsibilities (AID Recipient Countries Only)

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

- a. Each geographic bureau in the Department designates a deputy assistant secretary who is responsible for handling matters related to the destruction of U.S. property by mob action. The country director in the Department is responsible for immediately bringing any incident to the attention of the designated deputy assistant secretary and the Legal Adviser.
- b. In AID, the assistant administrator of the geographic bureau is responsible for these matters. The AID desk officer is responsible for

immediately bringing any incident to the attention of the responsible Assistant Administrator and the General Counsel.

- c. The Office of the Legal Adviser (state) and the Office of the General Counsel (AID) determine jointly whether the incident is one which might fall within scope of the provisions of section 620(j) of the Foreign Assistance Act of 1961, as amended. If the determination is affirmative or is dependent upon the procurement of further information, the incident is thereafter handled as a joint State/AID matter.
- d. The deputy assistant secretary has the primary responsibility for preparing communications concerning the incident, including communications designed to develop facts and communications instructing overseas posts. All communications are cleared in State and AID, including particularly the Offices of the Legal Adviser and the General Counsel.
- e. Any decision to terminate or suspend aid will be made by the Administrator of AID, with the approval of the Secretary, upon the recommendation of the Assistant Secretary and Assistant Administrator, accompanied by the advice of the General Counsel and the Legal Adviser.

2 FAM 182 NATURE OF REPORTING REQUIREMENTS

2 FAM 182.1 American Citizen Government Employees Injured or Killed

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

Posts should follow the procedures provided in 3 FAM 697.

2 FAM 182.2 Other American Citizens Injured or Killed

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

Posts should follow the procedures provided in 7 FAM 200.

2 FAM 182.3 Missing or Compromised Classified or

Administratively Controlled Documents

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

Posts should follow the procedures provided in 5 FAM 965.

2 FAM 182.4 Property

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

When demonstrations, riots, insurrections, or similar incidents result in damage or loss to real and personal property, posts are to prepare reports covering the following categories:

- a. Property held by the United States Government, both leased and owned;
- b. Property held by Government employees (U.S. citizen direct-hire, participating agency, and contractor including PASA and PASA contractor employees), whether privately owned or leased;
- c. Property held by organizations involving Government participation; e.g., Binational Centers.

2 FAM 182.5 Telegraphic Report

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

A telegraphic report is required to cover the following items:

- a. Whether there was advance information about the incident;
- b. Whether the post alerted local authorities;
- c. Whether protection was requested and provided, and, if provided, the adequacy thereof;
- d. Description of the incident, including political orientation of the demonstrators, their nationality, and intent;
- e. Description of the damages and estimated cost of repairs and replacements;
- f. Whether a protest has been lodged and restitution has been requested; and

- g. Attitude of local authorities, including an opinion on any anticipated problems in obtaining immediate repairs to property and/or financial reimbursement.

2 FAM 182.6 Airgram Report of Damages

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

As soon as the substantially complete listing of damages and costs of repair is available, the post submits a report itemizing the required repairs and replacements, with dollar costs of each, according to the following breakdown:

- a. Government-Owned and Long-Term Leased (FBO) Properties;
 - (1) Real Property
 - (2) Furniture and Furnishings
 - (3) Equipment
 - (4) Supplies
- b. Short-Term Leased (S&E) Properties;
 - (1) Real Property
 - (2) Furniture and Furnishings
 - (3) Equipment
 - (4) Supplies
- c. Short-Term Leased (USIA GOE) Properties;
 - (1) Real Property
 - (2) Furniture and Furnishings
 - (3) Equipment
 - (4) Supplies
- d. AID-Owned and Short-Term Leased Properties;
 - (1) Real Property

- (2) Furniture and Furnishings
 - (3) Equipment
 - (4) Supplies
- e. Other U.S. Government Properties.
- f. Privately held property (by Government employees only) indicating totals by employing agency.
- g. Property held by organizations involving U.S. Government participation; e.g., Binational Centers.

2 FAM 182.7 Airgram Report of Restitution

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

As soon as possible, the post submits a detailed report concerning restitution by the host government. If restitution has not been requested, an explanation is required. If restitution has been requested, the post reports (1) the cost of repairs and replacements, and (2) whether the host government agreed. No settlement for less than full payment will be agreed to without prior approval of the Department. If the host government did not agree, the post reports cost details and an explanation of the host government's position. If agreement has been reached, the post reports the terms of settlement. If by cash, the report includes the date payment is made and the exact amount received. If restitution takes the form of full repairs and replacements for all damages and losses, the post reports when the claim has been satisfied.

2 FAM 183 ACCOUNTABILITY

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

Loss or damage of property as defined in this section is to be treated as provided in 6 FAM 232 , including the use of a survey board to estimate losses or damages.

2 FAM 184 FINANCING REPAIRS AND REPLACEMENTS

2 FAM 184.1 Restitution by Host Government

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

Every effort should be made to have the host government advance funds or itself finance the cost of restitution of property damages and losses, even if some materials must be imported, for the following reasons:

- a. The U.S. Government does not budget for repairs to property damaged or destroyed abroad; and
- b. A post's use of its own funds to make repairs and purchase replacements would penalize the post, since reimbursement therefore from the host government is deposited to the Miscellaneous Receipts account of the Treasury Department for reimbursements for properties funded by appropriations other than the FBO appropriations. The reimbursement for damages or losses to property funded by the FBO appropriation is deposited to that appropriation at the appropriation level and no assurance can be given that the post allotment will be increased by the full amount of the reimbursement.

2 FAM 184.2 Interim Repairs by U.S. Government

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

When the host government agrees to make restitution for property damages and losses, it is assumed that all material and labor will be provided for both interim and permanent repairs. The host government is urged to make direct payment to vendors where possible. If, however, for the purposes of security and preservation of premises, the post finds it necessary to make interim repairs itself pending action by the host government, it should do so. In this case, the host government should be advised of costs as soon as possible, for which reimbursement is expected.

2 FAM 184.3 Gift of Funds (State)

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

- a. If the host government voluntarily offers a gift of funds, and the gift is in the form of an advance, for damages to short-term leased or other S&E-funded property (real or personal), such funds are deposited in a trust fund account (19X8822.1, Conditional Gift Fund, Department of State).

Costs of reparation are paid out of the account and the balance, if any, refunded to the donor if so requested. If the unused balance is not to be returned to the donor, it will be transferred to Miscellaneous Receipts in the general fund of the Treasury.

- b. If the gift of funds is in the form of a reimbursement to cover cost of reparation of damages, it is credited to the appropriation from which the cost of damages was paid. However, if there is a host government legal requirement that the host country pay reparation for damages to U.S. Government property, such payment for short-term leased or other S&E-funded property is not considered to be under the "gift" concept and would fall under the general rule which requires the deposit of such funds as Miscellaneous Receipts (31 U.S.C. 484).

2 FAM 184.4 Advance of Funds (AID and USIA)

(TL:GEN-236; 10-10-1985)

(Uniform State/AID/USIA Regulations)

If the host government offers an advance of funds for restitution of damages to AID and USIA facilities, such advances may be accepted and are accounted for as follows:

- a. AID: 72X8824 for U.S. Dollars - 72FT800 for Local Currency

Under authority of section 635(d) of the Foreign Assistance Act of 1961 as amended (22 U.S.C. 2395), the host government's advance of funds can be deposited, allotted, obligated, and expended; any balances remaining are to be returned to the host government on completion of repairs or other restitution.

- b. USIA: 67X8167.1 A/R for U.S. Dollars

If any advance of local currency is received for restitution of USIA facilities, the USDO converts local currency into U.S. dollars.

Under authority of 22 U.S.C. 1479, the host government's advance of funds can be deposited, allotted obligated, and expended; any balances remaining can be returned to the host government on completion of repairs or other restitution.

2 FAM 185 THROUGH 189 UNASSIGNED

(TL:GEN-236; 10-10-1985)

